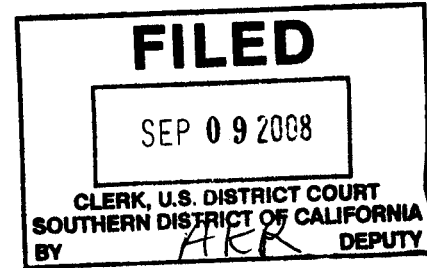


Attorney Name and Address:

Jeremy D. Warren  
 105 West F Street  
 Fourth Floor  
 San Diego, CA 92101

PHONE: 619-234-4433

RETAINED ☒ APPOINTED



IN THE UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF CALIFORNIA

TRIAL JUDGE William Q. HayesCOURT REPORTER M. Ramirez

UNITED STATES OF AMERICA

07cr3238-WQH

vs.

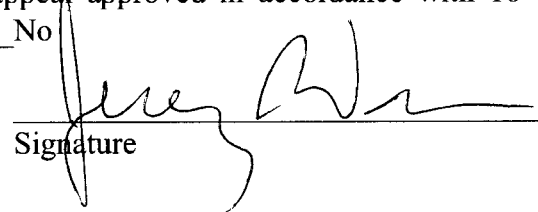
NOTICE OF APPEAL (Criminal)

Juan Hernan Lemus

Notice is hereby given that Juan Hernan Lemus,  
 defendant/plaintiff above named, hereby appeals to the United States Court of Appeals for the  
 Ninth Circuit from the: (check one)

☒ Final Judgment☐ Sentence Only (sentence imposed)☐ Order (describe)entered in this proceeding on the 5th day of September, 2008

If a government appeal: Was the filing of this appeal approved in accordance with 18 U.S.C.  
 §3742(b)(4) Yes No

Date: 9/8/2008Signature Transcripts required\* ☒ Yes NoDate ☒ Indictment ☐ Information Filed: November 29, 2007Bail status CustodyWill there be a request to expedite the appeal? Yes ☒ No

(Note: This does not alleviate the requirement of filing a motion to expedite which must be done in  
 accordance with FRAP 27).

\* If transcript(s) required, a transcript designation and ordering form must be completed and the  
 court reporter(s) contacted to make arrangements for transcription.

AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 1

FILED

UNITED STATES DISTRICT COURT 2008 SEP -5 PM 2:25  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

v.

JUAN HERNAN LEMUS (1)

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

BY

DEPUTY

Case Number: 07CR3238-WQH

JEREMY WARREN, CJA

Defendant's Attorney

REGISTRATION NO. 05777298

☐

THE DEFENDANT:

☒ pleaded guilty to count(s) 1 OF THE INDICTMENT

☐ was found guilty on count(s)  
after a plea of not guilty.

Accordingly, the defendant is adjudged guilty of such count(s), which involve the following offense(s):

Title & Section	Nature of Offense	Count Number(s)
18 USC 922(g)(1) and 924(a)(2)	FELON IN POSSESSION OF A FIREARM AND AMMUNITION AND CRIMINAL FORFEITURE	1
18 USC 924(d)		

The defendant is sentenced as provided in pages 2 through 5 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☐ Count(s)

is ☐ are ☐ dismissed on the motion of the United States.

☒ Assessment: \$100.00

☐ Fine waived

☐ Property forfeited pursuant to order filed , included herein.

IT IS ORDERED that the defendant shall notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

SEPTEMBER 2, 2008

Date of Imposition of Sentence

HON. WILLIAM Q. HAYES  
UNITED STATES DISTRICT JUDGE

07CR3238-WQH

AO 245B (Rev. 9/00) Judgment in Criminal Case  
Sheet 2 — Imprisonment

Judgment — Page 2 of 5

DEFENDANT: JUAN HERNAN LEMUS (1)  
CASE NUMBER: 07CR3238-WQH

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of  
15 months

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_  
as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before \_\_\_\_\_  
☐ as notified by the United States Marshal.  
☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

07CR3238-WQH

AO 245D (Rev. 12/03) Judgment in a Criminal Case for Revocations  
Sheet 3 — Supervised Release

Judgment—Page 3 of 5

DEFENDANT: JUAN HERNAN LEMUS (1)  
CASE NUMBER: 07CR3238-WQH

### SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of :  
3 years

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

*For offenses committed on or after September 13, 1994:*

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as determined by the court. Testing requirements will not exceed submission of more than 4 drug tests per month during the term of supervision, unless otherwise ordered by court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer pursuant to 18 USC 3583(d).
- ☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution obligation, it is a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in this judgment.

The defendant must comply with the standard conditions that have been adopted by this court. The defendant shall also comply with any special conditions imposed.

### STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

07CR3238-WQH

AO 245B (Rev. 9/00) Judgment in a Criminal Case  
Sheet 3 — Continued 2 — Supervised Release

Judgment—Page 4 of 5

DEFENDANT: JUAN HERNAN LEMUS (1)  
CASE NUMBER: 07CR3238-WQH

### SPECIAL CONDITIONS OF SUPERVISION

- ☒ Submit to a search of person, property, residence, abode or vehicle, at a reasonable time and in a reasonable manner, by the probation officer.
- ☐ If deported, excluded, or allowed to voluntarily return to country of origin, not reenter the United States illegally and report to the probation officer within 24 hours of any reentry to the United States; supervision waived upon deportation, exclusion, or voluntary departure.
- ☐ Not transport, harbor, or assist undocumented aliens.
- ☐ Not associate with undocumented aliens or alien smugglers.
- ☐ Not reenter the United States illegally.
- ☒ Not enter or reside in the Republic of Mexico without written permission of the Court or probation officer.
- ☒ Report all vehicles owned or operated, or in which you have an interest, to the probation officer.
- ☐ Not possess any narcotic drug or controlled substance without a lawful medical prescription.
- ☐ Not associate with known users of, smugglers of, or dealers in narcotics, controlled substances, or dangerous drugs in any form.
- ☐ Participate in a program of mental health treatment as directed by the probation officer, take all medications as prescribed by a psychiatrist/physician, and not discontinue any medication without permission. The Court authorizes the release of the presentence report and available psychological evaluations to the mental health provider, as approved by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.
- ☐ Take no medication containing a controlled substance without valid medical prescription, and provide proof of prescription to the probation officer, if directed.
- ☐ Participate in a mental health treatment program as directed by the probation office.
- ☐ Provide complete disclosure of personal and business financial records to the probation officer as requested.
- ☐ Be prohibited from opening checking accounts or incurring new credit charges or opening additional lines of credit without approval of the probation officer.
- ☐ Seek and maintain full time employment and/or schooling or a combination of both.
- ☐ Resolve all outstanding warrants within \_\_\_\_\_ days.
- ☐ Complete \_\_\_\_\_ hours of community service in a program approved by the probation officer within \_\_\_\_\_
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the probation officer for a period of \_\_\_\_\_
- ☐ Reside in a Residential Reentry Center (RRC) as directed by the Bureau of Prisons for a period of \_\_\_\_\_ commencing upon release from imprisonment.
- ☐ Remain in your place of residence for a period of \_\_\_\_\_, except while working at verifiable employment, attending religious services or undergoing medical treatment.
- ☐ Not engage in any form of telemarketing, as defined in 18 USC 2325, without the written permission of the probation officer.
- ☐ Comply with the conditions of the Home Confinement Program for a period of \_\_\_\_\_ months and remain at your residence except for activities or employment as approved by the court or probation officer. Wear an electronic monitoring device and follow procedures specified by the probation officer. Pay the total cost of electronic monitoring services, or a portion if deemed appropriate by the probation officer.
- ☐ Participate in a program of drug or alcohol abuse treatment, including urinalysis testing and counseling, as directed by the probation officer. The defendant may be required to contribute to the costs of services rendered in an amount to be determined by the probation officer, based on the defendant's ability to pay.

07CR3238-WQH

AO 245S Judgment in Criminal Case  
Sheet 5 — Criminal Monetary Penalties

Judgment — Page 5 of 5

DEFENDANT: JUAN HERNAN LEMUS (1)  
CASE NUMBER: 07CR3238-WQH

**FINE**

The defendant shall pay a fine in the amount of \$1,500.00 unto the United States of America.

This sum shall be paid        immediately.  
  x   as follows:

Pay a fine in the amount of \$1,500.00 payable forthwith or through the Inmate Financial Responsibility Program at the rate of \$25.00 per quarter during the period of incarceration, with the payment of any remaining balance to be made following the defendant's release from prison at the rate of at least \$100.00 per month.

The Court has determined that the defendant                      have the ability to pay interest. It is ordered that:

       The interest requirement is waived.

       The interest is modified as follows:

07CR3238-WQH

FILED

2008 SEP -5 PM 1:26

U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:  DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Case No. 07cr3238-WQH
	)	
Plaintiff,	)	PRELIMINARY ORDER
v.	)	OF CRIMINAL FORFEITURE
	)	
JUAN HERNAN LEMUS,	)	
	)	
Defendant.	)	

WHEREAS, in the Indictment in the above-captioned case, the United States sought forfeiture of all right, title and interest in specific property of the above-named Defendant pursuant to 18 U.S.C. § 924(d) and 28 U.S.C. § 2461(c) as a firearm and ammunition involved in a knowing violation of Title 18, United States Code, Section 922(g)(1) and 924(a)(2), as charged in the Indictment; and

WHEREAS, on or about June 2, 2008, the above-named Defendant, Juan Hernan Lemus ("Defendant"), pled guilty to Count 1 of the Indictment, which plea included consent to the criminal forfeiture allegation pursuant to Title 18 as set forth in the Indictment; and

WHEREAS, by virtue of the facts set forth in the plea agreement, the United States has established the requisite nexus between the forfeited property and the offense; and

WHEREAS, by virtue of said guilty plea, the United States is now entitled to possession of said property, pursuant to 18 U.S.C. § 924 and Rule 32.2(b) of the Federal Rules of Criminal Procedure; and

//

1 WHEREAS, pursuant to Rule 32.2(b), the United States having requested the authority to  
2 take custody of the following property which was found forfeitable by the Court, namely:

3 **One loaded Sturm & Ruger pistol, Model P95DC, 9mm caliber, serial number**  
4 **312-62717 with nine (9) rounds of ammunition.; and**

5 WHEREAS, the United States, having submitted the Order herein to the Defendant through  
6 his attorney of record, to review, and no objections having been received;

7 Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

8 1. Based upon the guilty plea of the Defendant, the United States is hereby authorized  
9 to take custody and control of the following asset, and all right, title and interest of Defendant  
10 Lemus in the following property are hereby forfeited to the United States for disposition in  
11 accordance with the law, subject to the provisions of 21 U.S.C. § 853(n):

12 **One loaded Sturm & Ruger pistol, Model P95DC, 9mm caliber, serial number**  
13 **312-62717 with nine (9) rounds of ammunition.**

14 2. The aforementioned forfeited asset is to be held by the Bureau of Alcohol, Tobacco,  
15 and Firearms in its secure custody and control.

16 3. Pursuant to Rule 32.2(b) and (c), the United States is hereby authorized to begin  
17 proceedings consistent with any statutory requirements pertaining to ancillary hearings and rights  
18 of third parties.

19 4. Pursuant to the Attorney General's authority under Section 853(n)(1) of Title 21,  
20 United States Code, Rule 32.2(b)(3), Fed. R. Crim. P., and Rule G(4) of the Supplemental Rules  
21 for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States forthwith shall  
22 publish for thirty (30) consecutive days on the Government's forfeiture website,  
23 [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Order, notice of the Marshals Service's intent to dispose of the  
24 property in such manner as the Attorney General may direct, and notice that any person, other than  
25 the Defendant, having or claiming a legal interest in the above-listed forfeited property must file  
26 a petition with the Court within thirty (30) days of the final publication of notice or of receipt of  
27 actual notice, whichever is earlier.

28 //



7. Upon adjudication of all third-party interests, this Court will enter an Amended Order of Forfeiture pursuant to 21 U.S.C. § 853(n), in which all interests will be addressed.

9/4/08

WILLIAM Q. HAYES, Judge  
United States District Court

MIME-Version:1.0  
From:efile\_information@casd.uscourts.gov  
To:bcc\_only  
Bcc:Randy.Jones2@usdoj.gov, Stephanie.Delgadillo@usdoj.gov,  
efile.dkt.gc1@usdoj.gov, jw@jwarrenlaw.com, efile\_Hayes@casd.uscourts.gov  
Message-Id:<2810800@casd.uscourts.gov>  
Subject:Activity in Case 3:07-cr-03238-WQH USA v. Lemus Sentencing  
Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.'**

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 9/3/2008 at 10:20 AM PDT and filed on 9/2/2008

**Case Name:** USA v. Lemus

**Case Number:** 3:07-cr-3238

**Filer:**

**Document Number:** 42(No document attached)

**Docket Text:**

**Minute Entry for proceedings held before Judge William Q. Hayes:P/O Report and Sentencing held on 9/2/2008 for Juan Hernan Lemus (1), Count(s) 1, Custody of the BOP for a term of 15 months followed by 3 years supervised release. \$1,500.00 Fine. \$100.00 S/A. All pending motions - moot. Defendant advised of appeal rights as to the denial of Motion to Suppress Evidence only. (Court Reporter Mauralee Ramirez).(Plaintiff Attorney Randy Jones, AUSA).(Defendant Attorney Jeremy Warren, CJA). (sxd)**

**3:07-cr-3238-1 Notice has been electronically mailed to:**

Randy K Jones Randy.Jones2@usdoj.gov, Stephanie.Delgadillo@usdoj.gov, efile.dkt.gc1@usdoj.gov

Jeremy D Warren jw@jwarrenlaw.com

**3:07-cr-3238-1 Notice has been delivered by other means to:**

MIME-Version:1.0  
From:efile\_information@casd.uscourts.gov  
To:casd.uscourts.gov  
Bcc:Randy.Jones2@usdoj.gov, Monica.Zamora@usdoj.gov, efile.dkt.gc1@usdoj.gov, jw@jwarrenlaw.com, efile\_Hayes@casd.uscourts.gov  
Message-Id:<2367278@casd.uscourts.gov>  
Subject:Activity in Case 3:07-cr-03238-WQH USA v. Lemus Attorney Appointment Hearing  
Content-Type: text/html

**\*\*\*NOTE TO PUBLIC ACCESS USERS\*\*\* You may view the filed documents once without charge. To avoid later charges, download a copy of each document during this first viewing.**

**U.S. District Court**

**Southern District of California**

**Notice of Electronic Filing**

The following transaction was entered on 1/16/2008 at 9:37 AM PST and filed on 1/15/2008

**Case Name:** USA v. Lemus

**Case Number:** 3:07-cr-3238

**Filer:**

**Document Number:** 12(No document attached)

**Docket Text:**

Minute Entry for proceedings held before Judge Louisa S Porter :Attorney Appointment Hearing as to Juan Hernan Lemus held on 1/15/2008. Appointment of Attorney Jeremy Warren confirmed under 18:3006(a). Status Hearing re: reimbursement under 3006(a) set for 5/13/2008 02:00 PM in Courtroom H before Magistrate Judge Louisa S Porter. (Tape #POR08-1:14:32-14:37).(Plaintiff Attorney Sabrina Feve, AUSA).(Defendant Attorney Jeremy Warren CJA). (rfm)

**3:07-cr-3238-1 Notice has been electronically mailed to:**

Randy K Jones Randy.Jones2@usdoj.gov, Monica.Zamora@usdoj.gov, efile.dkt.gc1@usdoj.gov  
Jeremy D Warren jw@jwarrenlaw.com

**3:07-cr-3238-1 Notice has been delivered by other means to:**

## Notice of Appeal Notification Form

**To:** Clerk, U.S. Court of Appeals

**Date:** 9/10/2008

**From:** U.S. District Court, Southern District of California

**Subject:** New Appeals Case Information & Docket Fee Notification

### Case Information

Case Title: United States of America v. Juan Hernan Lemus

U.S.D.C. No.: 07cr3238-WQH

U.S.D.C. Judge: William Q. Hayes

Complaint/Indictment/Petition Filed: Indictment

Appealed Order Entered: 9/8/2008

Notice of Appeal Filed: 9/9/2008

Court Reporter: Mauralee Ramirez

COA Status: ☐ Granted in full/part (appeal only)

☐ Denied (send clerk's file)

### Docket Fee Notification

Docket Fee: ☐ Paid

☐ Not Paid

☒ No Fee Required

USA/GOVT. APPEAL: ☐ Yes ☒ No

Date F/P granted (Show Date and Attach Copy of Order): \_\_\_\_\_

Was F/P Status Revoked? ☐ Yes

☐ No

Companion Case(s): (Please list consolidated cases, if applicable) \_\_\_\_\_

### Counsel Information

#### Appellant Counsel:

Jeremy D Warren  
Law Offices of Jeremy D Warren  
105 West F Street  
Fourth Floor  
San Diego, CA 92101  
(619) 234-4433

#### Appellee Counsel:

Randy K Jones  
U S Attorneys Office Southern District of CA  
880 Front Street, Room 6293  
San Diego, CA 92101  
(619) 557-5610

Counsel Status: ☐ Retained

☒ Appointed

☐ Pro Se

Appointed by: Magistrate Judge Louisa S. Porter

(Attach copy of order/minutes)

**Defendant Information**Prisoner ID Number: 05777-298

Bail: \_\_\_\_\_

Custody: x**SERVICE LIST**

**Counsel for Appellant(s) and Appellee(s), as listed on the previous page, have been sent copies of the following items:**

x	Transmittal of U.S.C.A. (Appellant and Appellee)
x	Case Information/Docketing Fee Notification Form. (Appellant Only)
x	Notice of Appeal. (Appellant, Appellee, U.S. District Judge, USPO, and Court Reporter)
x	Docket Entries (Appellant and Appellee)
x	Designation of Reporter's Transcript and Ordering Form. (Appellant Only, mailed separately)
x	Order for Time Schedule. (Criminal Only) (Appellant, Appellee, and Court Reporter)
	Magistrate Judge's Report and Recommendation
	COA Order
	F/P Order
	Minute Order
x	Other: Judgment, entered 9/8/2008; Preliminary Order of Criminal Forfeiture, entered 9/8/2008; NEF Sentencing Minutes, entered 9/3/2008; NEF minutes appointing counsel, entered 1/16/2008

Form Completed And Documents Served By U.S. District Court Deputy Clerk:

Angela Rowland

Deputy's Name

A Rowland

Deputy's Signature

**UNITED STATES DISTRICT COURT**

Southern District Of California  
 Office Of The Clerk  
 880 Front Street, Room 4290  
 San Diego, California 92101-8900  
 Phone: (619) 557-5600  
 Fax: (619) 702-9900

W. Samuel Hamrick, Jr.  
 Clerk of Court

To: Clerk, U.S. Court of Appeals  
 P.O. Box 193939  
 San Francisco, CA 94119-3939

Re: **USCA No:**  
**USDC No: 07cr3238-WQH**  
**USA v. Lemus**

Clerk, U.S. Court of Appeals, enclosed herewith you will please find:

x	Copy of the Notice of Appeal	x	Docket Entries
x	Case Information/Docket Fee Payment Notification Form		
x	Order for Time Schedule (Criminal)		
	Original Clerk's Record in	set(s) of	volume(s).
	Reporter's transcript's transcripts in	set(s) of	volume(s).
	Exhibits in	envelope(s)	box(es) folders(s)
x	Judgement Order		F/P Order
	CJA Form 20		Minute Order
	Certificate of Record		Mandate Return
	Magistrate Judge's Report and Recommendation		
	COA Order		
	Amended docket fee notification form		
	Order Appointing Counsel for Appeal		
x	Preliminary Order of Criminal Forfeiture, entered 9/8/2008; NEF Sentencing Minutes, entered 9/3/2008; NEF minutes appointing counsel, entered 1/16/2008		
x	Please acknowledge on the enclosed copy of this transmittal		

Sincerely yours,

W. Samuel Hamrick, Jr.  
 Clerk of Court

By: A Rowland  
 Angela Rowland, Deputy

Date: 9/10/2008